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SEP 28 2006

Appl. No. 10/765,030
Amdt. dated September 27, 2006
Reply to Office Action of July 5, 2006

Remarks

Claims 1-32, 40, 41, 43, and 46-49 are pending in this application. Claims 33-39, which were newly added as part of the Preliminary Amendment filed January 26, 2004, have now been canceled.

The six independent claims in this application (i.e., claims 1, 9, 12, 20, 23 and 40), as well as a number of their dependent claims, have all been rejected under 35 U.S.C. §102(b) as being anticipated by CA 2166671 (Savoie). Other dependent claims have been rejected under 35 U.S.C. §103(a) as being unpatentable over Savoie in view of Schmitt et al. U.S. Patent 5,433,064. These rejections are respectfully traversed as set forth below.

Applicant would like to take this opportunity to thank Examiners Petravick, Torres and Will for the courtesies extended during a personal interview on September 14, 2006. With two exceptions, as hereinafter discussed, the amendments made to the claims in the present Amendment have been made pursuant to the agreement reached during the interview.

As pointed out during the interview, conditioning rolls can present a problem for rotary cutter bed machines, particularly in light crop conditions. The lower conditioning roll in its third quadrant has a forwardly and upwardly moving peripheral portion that tends to reject or kick incoming severed materials back out the front of the machine, which interferes with crop flow and can produce cutoff problems and other difficulties.

A "helper" roller in accordance with the present invention positioned in front of the third quadrant of the lower conditioning roll takes the rejecting portion of the lower conditioning roll "out of play" and encourages the incoming materials to flow smoothly upwardly and rearwardly to the nip between the conditioning rolls.

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Independent claims 1, 12, 23 and 40 have all been amended to include, among other things, the following identical limitation:

said upper forward peripheral portion of the conveying roller being disposed in front of the lower forward peripheral portion of the lower conditioning roll, and most of the lower, forward peripheral portion of the conveying roller being disposed below the plane of said cutting zone.

In contrast, CA 2166671 (Savoie) has most of the lower, forward peripheral portion of the feed roller 31 disposed above the plane of the cutting zone as clearly shown in Fig. 10. Consequently, the feed roll 31 of Savoie is simply another example of the problem in the prior art wherein the third quadrant of the first roll to be engaged by the incoming severed crop has a tendency to reject the materials instead of helping them flow into the nip.

Therefore, as agreed during the interview, independent claims 1, 12, 23 and 40 are not anticipated by the Savoie reference and this rejection should be withdrawn. In addition, the dependent claims associated with independent claim 1 (claims 2-8 and 11), the dependent claims associated with independent claim 12 (claims 13-19), the dependent claims associated with independent claim 23 (claims 24-32), and the dependent claims associated with independent claim 40 (claims 41, 43, and 46-49) all set forth further details of the invention not shown or suggested by the art of record. Accordingly, the rejection of such dependent claims should also be withdrawn.

Independent claims 9 and 20 do not include the limitation in claims 1, 12, 23 and 40 with respect to the location of the peripheral portions of the helper roller relative to the cutting plane. However, independent claims 9 and 20 have been amended slightly, and in an identical manner, to clarify that the conveying roller has "an outermost diameter that is smaller than the outermost diameter of the lower conditioning roll."

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This feature is completely lacking in the Savoie reference wherein the feed roll 31 has an outermost diameter that is at least as large as, if not larger than, the outermost diameter of the lower conditioning roll 34. Consequently, the Savoie reference does not anticipate the subject matter of claims 9 and 20 such that the rejection thereof should be reconsidered and removed.

Claim 10 depends from allowable claim 9 and sets forth further details of the invention not shown or suggested by the art of record. Therefore, claim 10 is also in condition for allowance. Likewise, claims 21 and 22 depend from allowable claim 20 and set forth further details of the invention not shown or suggested by the art of record. Accordingly, claims 21 and 22 are also in condition for allowance.

Accordingly, it is respectfully submitted that all remaining claims in this reissue application are in full condition for allowance and formal notice to this effect is respectfully requested.

Accompanying this response and made a part hereof, pursuant to 37 C.F.R. §1.173(c), is a SECOND STATEMENT OF STATUS AND SUPPORT FOR CHANGES TO CLAIMS. Also submitted is a Supplemental Declaration from the assignee.

Canadian Patent 2,300,818 corresponds to U.S. Patent 6,158,201 and is the subject of a pending re-examination proceedings in the Canadian Patent Office. The Requester in that Canadian proceedings is the same party that has filed protests in these U.S. reissues proceedings, namely MacDon Industries Ltd. MacDon's counsel has suggested that MacDon's most recent comments submitted in the Canadian proceedings be submitted in these U.S. reissue proceedings so that the U.S. examiner might be able to consider them in connection with reaching a decision in the U.S. reissue proceedings. Accordingly, enclosed herewith is a copy of REMARKS OF REQUESTER ON RE-EXAMINATION OF A PATENT UNDER SECTION 48.1(1) OF THE PATENT ACT from the Canadian re-examination proceedings received June 20, 2006, together with a transmittal letter from MacDon's counsel dated May 15, 2006.

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MacDon's counsel also suggested that an English language translation of EP 00116661 (Maier) be submitted in these U.S. reissue proceedings. Accordingly, a copy of the English language translation of EP 00116661 (Maier) as provided by MacDon's counsel in the Canadian re-examination proceedings is submitted herewith.

In view of the foregoing, a Notice of Allowance appears to be in order and such is courteously solicited. Any additional fee which might be due in connection with this application should be applied against our Deposit Account No. 19-0522.

Respectfully submitted,

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